



NEW MEXICO
LAW OFFICES OF THE
PUBLIC DEFENDER

FY26 Budget Request

Legislative Finance Committee

Budget Hearing

November 20, 2024

FY26 General Fund Budget Request

\$87.4 million

+\$10.4 million, 13.5%

Funding for FTE, per Workload Study Recommendations:	\$5,432,620
Rural Representation and compensation:	\$695,000
Increase Multilingual Pay (improving direct client services):	\$168,480
Contract Attorney Costs:	\$3,700,000
Operational Expenses, including transcription costs:	\$387,000
<u>Total Increase:</u>	<u>\$10,383,100</u>

BASE BUDGET REQUEST

Goal: Continue to implement American Bar Association (ABA) New Mexico Workload Study recommendations for adequate staffing to improve representation, increase direct support, and reduce recidivism.

Request: \$5,432,620 for 60 additional FTE

- +30 additional attorneys - 20 of whom will serve rural communities.
 - +10 investigators to assist attorneys with investigating and developing cases.
 - +10 core staff to assume administrative work to enable attorneys to focus on client representation, including building relationships and communicating with clients.
 - +10 FTE dedicated to the social work unit, including: 6 social workers and 4 case managers to assess client substance abuse and mental health needs and to engage clients towards recovery.
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Goal: Support for attorneys serving rural and hard-to-staff locations.

Request: \$695,000 for recruitment bonuses and hourly pay differentials.

Goal: Bolster direct client services by better compensating staff who speak multiple languages, which also creates a recruiting incentive.

Request: \$168,480 to increase multi-lingual pay for staff.

Goal: Improved compensation for contract attorneys, creating more pay parity with state civil contract attorneys, including funding to increase base rates on cases, funding for complex litigation, and beginning the transition to hourly rates.

Request: \$3,700,000 to improve pay parity for contract attorneys when compared with other state attorneys.

Goal: Additional funds for transcription as well as operational costs that have become more expensive due to inflation.

Request: \$387,000 for operational costs, including additional funds for transcription costs and transcription software, and lease costs that have become more expensive due to inflation.

SUPPORTING DATA

Staffing and Vacancy Rates. LOPD's FY26 FTE request, combined with the 58 FTE added by the legislature between FY22 and FY25 is a step towards achieving the Workload Study's recommendation of 602 additional attorneys plus requisite support staff; however, more support is needed to strengthen indigent representation. Expanding direct client services, including social workers and case managers who assess client needs and match clients with available community services, is critical. Additional FTE will also bring LOPD closer to staffing parity with district attorney offices.

Attorneys we have

In-house + contract

335

FY26 budget request seeks 30 attorney and 30 core staff FTE.

Attorneys we need

for total case assignments

602+

Per ABA Workload Study of NM LOPD released January 2022.

LOPD's vacancy rate continues to remain low, even when accounting for new positions added. Of the 20 FTE added to LOPD's budget in FY25, only 5 remain vacant as of 11/18/2024 with two new hires starting in early December.

Vacancy Rate

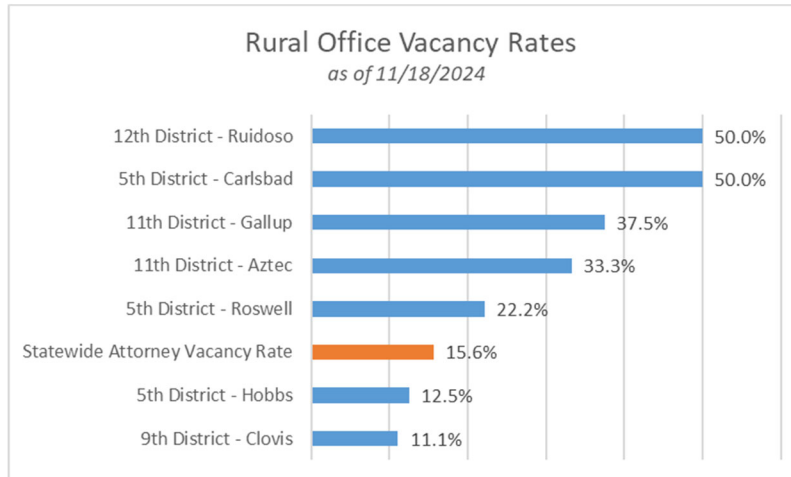
as of 11/18/2024

**Agency
Wide
10.9%**

**Attorneys
15.6%**

**Core
Staff
6.3%**

Offices statewide continue to be difficult to staff, including the 5th, 11th, and 12th districts. The Hobbs and Clovis offices, which have historically been difficult to staff, have current vacancy rates below the statewide average for LOPD in-house attorneys in large part due to recruitment initiatives. Robust funding for LOPD’s recruitment and retention initiatives are critical to reducing vacancy rates statewide.



Pay for Contract Defenders. Private attorneys who contract with LOPD are compensated at a base rate depending on the type of criminal charges. LOPD is not funded to pay rates commensurate with the hourly rates paid to attorneys that contract on civil matters to protect the State’s money.

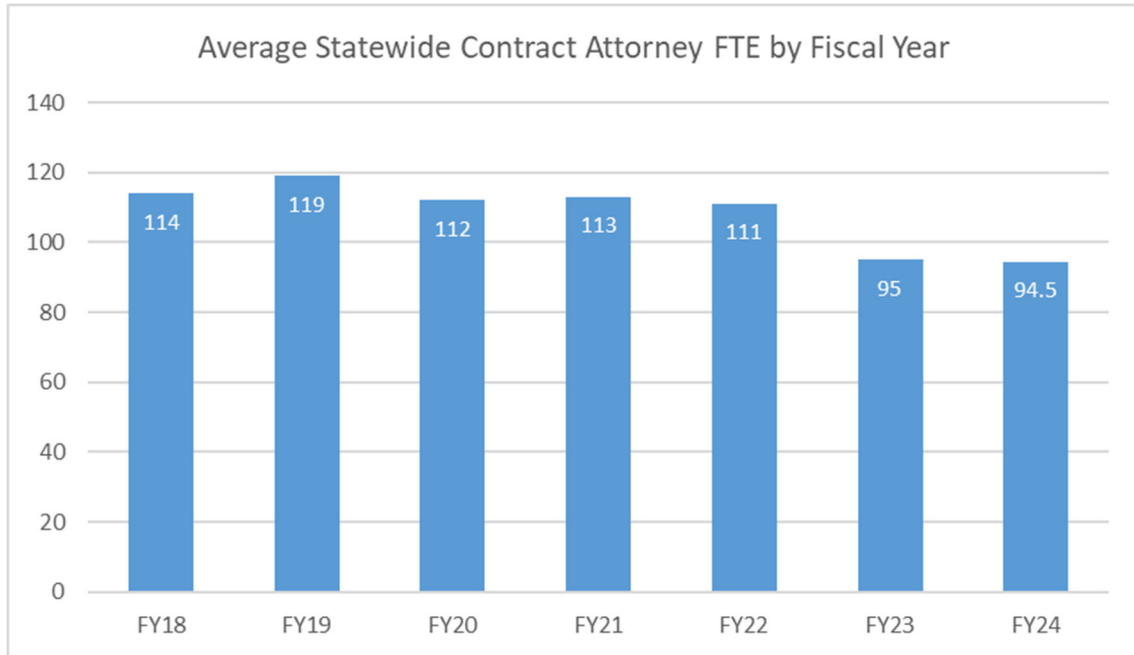
State contract civil attorneys are compensated by an hourly rate based on years of experience as laid out in the chart to the right.

New Mexico State Contractor Rates	
NM Risk Management Division Hourly Rate (civil cases)	Years of Experience
\$150	0 – 2 years
\$175	2 – 5 years
\$200	5 – 10 years
\$225	10+ years

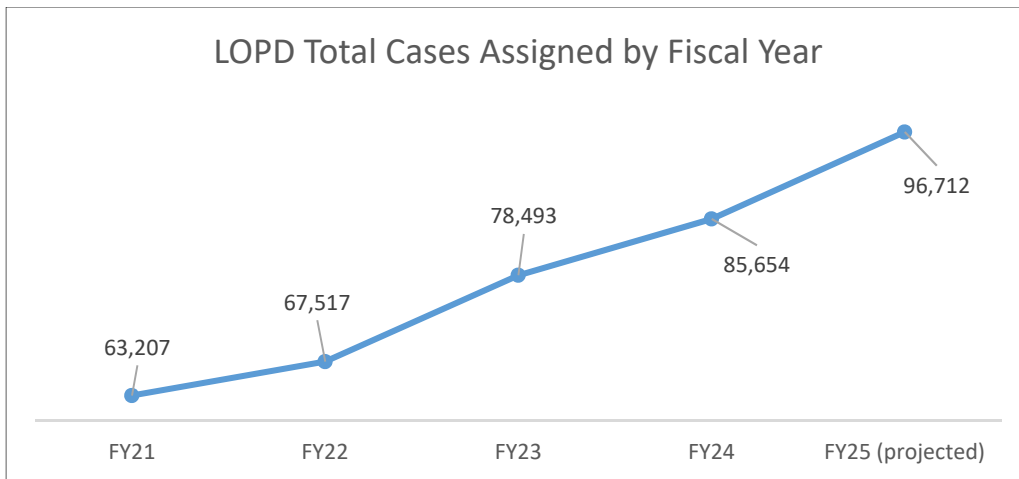
Estimated hourly rates for LOPD’s contract attorneys are listed in the graph below. These estimated rates assume contract attorneys are working the average number of hours needed per case type for every case to which they are assigned. The average hours per case type was determined by a professionally conducted survey of New Mexico experts and documented in the report The New Mexico Project: An Analysis of the New Mexico Public Defense System and Attorney Workload Standards (January 2022).

Law Offices of the Public Defender - Contract Rates		
Case Type	Base Rate	Estimated hourly rates based on NM workload study Delphi panel results (2022)*
1st Degree Felony Murder	\$5,400.00	\$13.81
1st Degree - Life Imprisonment	\$5,400.00	\$13.81
1st Degree Felony	\$750.00	\$14.80
2nd Degree Felony	\$700.00	\$13.81
3rd Degree Felony	\$645.00	\$12.73
4th Degree Felony	\$540.00	\$16.60
Juvenile	\$300.00	\$0.79 - \$18.94
Misdemeanor DWI/DV	\$300.00	\$13.82
Misdemeanor (other)	\$180.00	\$23.68

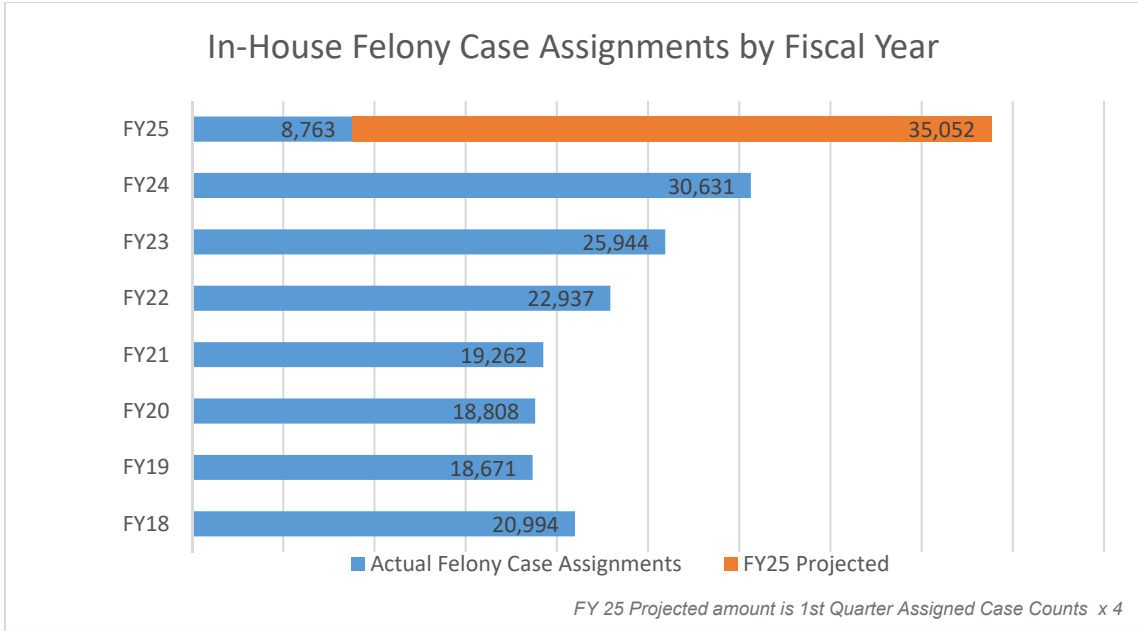
* The more severe the case, the more hours worked and less the attorney is paid per hour.



Caseloads. LOPD’s caseloads continue to climb, necessitating the need for additional, better compensated staff and contractors.



Notably, felony case assignments are also climbing rapidly. Although counts of felony cases assigned to in-house attorneys fluctuate over time, numbers increased 46% since the start of FY18 and 18% compared to FY23. However, LOPD’s resources struggle to keep pace: LOPD In-House attorney staff has increased 13% since FY18 and 2% from FY23.



Not only have case assignments surpassed pre-pandemic levels, but the assignment of felony cases has far surpassed those in the last six fiscal years. Higher felony caseloads, combined with the limited number of attorneys to handle cases, is a grave concern as felony cases are more complex and require more time and resources.